

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEN BLAIR,

Plaintiff,

v.

THE BETHEL SCHOOL DISTRICT, a  
municipal corporation under the laws of the  
State of Washington; TOM SEIGEL, the  
superintendent of Bethel School District and in  
his individual capacity; and his marital  
community with "JANE DOE" SEIGEL;  
BRENDA ROGERS, as president of the Bethel  
School District school board, and in her  
individual capacity and her marital community  
with "JOHN DOE" ROGERS; SUSAN SMITH,  
vice president of the Bethel School District  
school board, in her individual capacity and her  
marital community with "JOHN DOE" SMITH;  
JOY COOK, school board member of the  
Bethel School board in her individual capacity  
and in her marital community with "JOHN  
DOE" COOK; and JOHN MANNING, school  
board member of the Bethel School District  
School Board in his individual capacity and his  
marital community with "JANE DOE"  
MANNING,

Defendants.

No. C08 5181 FDB

ANSWER OF DEFENDANTS

COMES NOW the defendants, through their attorneys, William A. Coats and Daniel C.  
Montopoli of Vandenberg Johnson & Gandara, LLP, and by way of answer to plaintiff's complaint,  
admit, deny, and allege as follows:

ANSWER OF DEFENDANTS - 1

VANDEBERG JOHNSON & GANDARA, LLP  
ATTORNEYS AT LAW  
1201 PACIFIC AVENUE, SUITE 1900  
P.O. BOX 1315  
TACOMA, WASHINGTON 98401-1315  
(253) 383-3791 (TACOMA)  
FACSIMILE (253) 383-6377

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**I. Jurisdiction and Venue**

1. Defendants admit the factual allegations contained in paragraphs 1.1 through 1.3 and deny any and all other allegations contained therein.

**II. The Parties**

2. Defendants admit the allegations contained in paragraph 2.1.

3. In answer to paragraph 2.2, defendants admit that Bethel School District is a municipal corporation under the laws of the State of Washington and that the plaintiff is an elected School Board member. Defendants deny the remaining allegations contained in paragraph 2.2.

4. In answer to paragraph 2.3, defendants admit that the individual defendants (with the exception of defendant Tom Seigel) at all times relevant hereto were members of the Bethel School Board. Defendant Brenda Rogers at all times relevant hereto was the President of the School Board and defendants Smith, Cook, and Manning were Board members. At all times relevant hereto, defendant Tom Seigel was/is the Superintendent of Bethel School District who was appointed and/or hired by the School Board. Defendants deny the remaining allegations contained in paragraph 2.3.

5. In answer to paragraph 2.4, defendants admit that any actions they have taken that are relevant to this proceeding were done in the course of their employment and/or their duties as School Board members for Bethel School District. Defendants deny any other allegations contained in paragraph 2.4.

**III. Factual Background**

6. In answer to paragraph 3.1, defendants admit that plaintiff became a Bethel School District School Board member in 1999 and through the elections process retains that position to the present. He is next up for election in the year 2009. He has stood for election in 1999, 2001, and

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1 2005. In January of 2007, he was appointed to the position of vice president of the School Board.  
2 Defendants deny the remaining allegations contained in paragraph 3.1.

3 7. In answer to paragraph 3.2, defendants admit that plaintiff, over the last three years,  
4 has voted "no" on extending Mr. Seigel's contract for his position as Superintendent. In addition,  
5 plaintiff has disagreed with the evaluation of Mr. Seigel. Defendants deny the remaining allegations  
6 contained in paragraph 3.2.

7 8. In answer to paragraph 3.3, defendants admit that plaintiff expressed concern  
8 regarding Mr. Seigel's job performance and that his contract was extended, that he received pay  
9 increases, and positive performance evaluations. Defendants deny the remaining allegations  
10 contained in paragraph 3.3.

11 9. In answer to paragraph 3.4, defendants admit that plaintiff voted not to extend the  
12 Superintendent's contract and that on or about September 26, 2007, plaintiff gave statements to the  
13 news media. Defendants are without sufficient information to form a belief as to the truth or falsity  
14 of the remaining allegations and therefore deny the same.

15 10. In answer to paragraph 3.5, defendants admit that following plaintiff's public  
16 criticism of Superintendent Seigel's job performance and contract extension, plaintiff made a  
17 number of public disclosure requests to the District. The Summons and Complaint received by the  
18 District did not include these requests. Defendants deny the remaining allegations contained in  
19 paragraph 3.5.

20 11. In answer to paragraph 3.6, defendants admit that on or about October 10, 2007, the  
21 Board of Directors voted in an open public meeting to remove plaintiff as Vice President of the  
22 Board of Directors and replace him with another Board member. Defendants deny the remaining  
23 allegations contained in paragraph 3.6.

24 ANSWER OF DEFENDANTS - 3

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12. Defendants deny the allegations contained in paragraph 3.7.

13. Defendants deny the allegations contained in paragraph 3.8.

14. Defendants deny the allegations contained in paragraph 3.9.

#### IV. Cause of Action

Defendants incorporate their above answers regarding paragraphs 1.1 to 3.9 and deny the allegations contained in paragraph 4.1.

#### V. Affirmative Defenses

By way of further answer, the defendants assert the following affirmative defenses:

1. Plaintiff's complaint fails to state a cause of action upon which relief may be granted.

2. Defendants' conduct was privileged.

3. The board of directors of a public school district has the constitutional and legal right to select and retain its own leadership.

4. Plaintiff's statements were made pursuant to his official duties and thus were not protected by the Constitution.

5. Individual defendants at all times acted in good faith in the performance of their duties and are therefore immune from suit for the matters charged in plaintiff's complaint.

6. Defendants are entitled to immunity for some, if not all, of plaintiff's claims.

7. Defendants expressly reserve the right to raise additional affirmative defenses based upon information obtained through discovery and/or trial.

1 Wherefore, having fully answered plaintiff's complaint, defendants request the complaint be  
2 dismissed with prejudice and that they recover their costs and disbursements incurred herein.

3 DATED this 23<sup>rd</sup> day of May, 2008.

4  
5 VANDEBERG JOHNSON & GANDARA, LLP

6  
7 By 

8 William A. Coats, WSBA # 4608

9 Daniel C. Montopoli, WSBA # 26217

Attorneys for Defendants

10 DECLARATION

11 The undersigned certifies under penalty of perjury under  
12 the laws of the State of Washington that on the below date  
13 I caused to be sent via facsimile transmission, a true copy  
14 of this document to the attorneys of record for plaintiff.

15 Dated this 23<sup>rd</sup> day of May, 2008, at Tacoma, Washington.

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